

## 46 Am. Jur. 2d Judges § 107

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### Judges

Glenda K. Harnad, J.D.; and Kristina E. Music Biro, J.D., of the staff of the National Legal Research Group, Inc.

### IX. Disqualification to Act in Particular Case

#### B. Grounds for Disqualification

##### 2. Interests as Grounds for Disqualification

##### b. Particular Interests as Grounds for Disqualification

##### (4) Other Interests as Disqualifying

## § 107. Interest of judge in estate as grounds for disqualification—Trustee; fiduciary for creditors

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Judges](#)  42

### A.L.R. Library

[Interest of judge in an official or representative capacity, or relationship of judge to one who is a party in an official or representative capacity, as disqualification, 10 A.L.R.2d 1307](#)

Generally, the Code of Judicial Conduct states that a judge should disqualify him- or herself if the judge, as a fiduciary, has an economic interest in the subject matter in controversy.<sup>1</sup> A trustee has a disqualifying interest because of his or her duty to promote the welfare of his or her cestui que trust, which would conflict with the impartiality required of a judge,<sup>2</sup> and judges have been found to be disqualified in cases in which the judge was trustee and his or her cestui que trust was interested,<sup>3</sup> although there is authority to the contrary.<sup>4</sup> If the cestui que trust is held to have no interest in the case, his or her trustee is also without interest and the trustee is not disqualified as a judge.<sup>5</sup>

A trustee for the benefit of the defendant's creditors is disqualified to sit as a judge in the case.<sup>6</sup>

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Footnotes

- 1 A.B.A. Code of Judicial Conduct, Canon 2, Rule 2:11(A)(3).  
As to what constitutes an "economic interest" in this regard, see § 92.
- 2 *Lindsley v. Lindsley*, 152 S.W.2d 415 (Tex. Civ. App. Dallas 1941), judgment rev'd on other grounds, 139 Tex. 512, 163 S.W.2d 633 (Comm'n App. 1942).
- 3 Appeal of Askounes, 144 Pa. Super. 293, 19 A.2d 846 (1941).
- 4 *Lade v. Keller*, 615 S.W.2d 916 (Tex. Civ. App. Tyler 1981).
- 5 Appeal of Askounes, 144 Pa. Super. 293, 19 A.2d 846 (1941).
- 6 *Dankmer v. City Ice & Fuel Co.*, 121 W. Va. 752, 6 S.E.2d 771 (1939).

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